

## Senate Bill No. 635

### CHAPTER 777

An act to amend Section 116365 of the Health and Safety Code, relating to drinking water.

[Approved by Governor October 7, 1999. Filed  
with Secretary of State October 10, 1999.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 635, Sher. Primary drinking water standards.

Existing law, the Calderon-Sher Safe Drinking Water Act of 1996, requires the State Department of Health Services to adopt regulations covering water testing, the monitoring of contaminants, the frequency and method of sampling and testing, the reporting of results, and other matters as may be necessary to determine and ensure the quality of domestic water supplies.

Existing law requires the Office of Environmental Health Hazard Assessment to perform a risk assessment and, based upon that risk assessment, to adopt a public health goal for contaminants in drinking water based exclusively on public health considerations for each drinking water contaminant regulated, or proposed to be regulated, by the department pursuant to a primary drinking water standard.

This bill would instead require the office to prepare and publish an assessment of the risks to public health posed by each contaminant for which the department proposes a primary drinking water standard and would require the risk assessment to contain an estimate of the level of the contaminant in drinking water that is not anticipated to cause or contribute to adverse health effects, or that does not pose any significant risk to health, that would be known as the public health goal for the contaminant. The bill would also revise the criteria upon which the public health goal for each contaminant would be based. This bill would require the office to post certain information about the risk assessments on its Internet web page, and would establish procedures for submission of comments, data, studies, or other written information by interested persons.

Existing law requires the Office of Environmental Health Hazard Assessment to adopt a public health goal for certain drinking water contaminants by January 1, 1999, and for all remaining drinking water contaminants for which a primary drinking water standard has been adopted by the department by no later than December 31, 1999.

This bill would require that the office publish, rather than adopt, those goals and would extend the date by which the goal for the remaining drinking water contaminants shall be published to December 31, 2001.

*The people of the State of California do enact as follows:*

SECTION 1. Section 116365 of the Health and Safety Code is amended to read:

116365. (a) The department shall adopt primary drinking water standards for contaminants in drinking water that are based upon the criteria set forth in subdivision (b) and shall not be less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency. Each primary drinking water standard adopted by the department shall be set at a level that is as close as feasible to the corresponding public health goal placing primary emphasis on the protection of public health, and that, to the extent technologically and economically feasible, meets all of the following:

(1) With respect to acutely toxic substances, avoids any known or anticipated adverse effects on public health with an adequate margin of safety, and

(2) With respect to carcinogens, or any substances that may cause chronic disease, avoids any significant risk to public health.

(b) The department shall consider all of the following criteria when it adopts a primary drinking water standard:

(1) The public health goal for the contaminant published by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c).

(2) The national primary drinking water standard for the contaminant, if any, adopted by the United States Environmental Protection Agency.

(3) The technological and economic feasibility of compliance with the proposed primary drinking water standard. For the purposes of determining economic feasibility pursuant to this paragraph, the department shall consider the costs of compliance to public water systems, customers, and other affected parties with the proposed primary drinking water standard, including the cost per customer and aggregate cost of compliance, using best available technology.

(c) (1) The Office of Environmental Health Hazard Assessment shall prepare and publish an assessment of the risks to public health posed by each contaminant for which the department proposes a primary drinking water standard. The risk assessment shall be prepared using the most current principles, practices, and methods used by public health professionals who are experienced practitioners in the fields of epidemiology, risk assessment, and toxicology. The risk assessment shall contain an estimate of the level of the contaminant in drinking water that is not anticipated to cause or contribute to adverse health effects, or that does not pose any significant risk to health. This level shall be known as the public health goal for the contaminant. The public health goal shall be based

exclusively on public health considerations and shall be set in accordance with all of the following:

(A) If the contaminant is an acutely toxic substance, the public health goal shall be set at the level at which no known or anticipated adverse effects on health occur, with an adequate margin of safety.

(B) If the contaminant is a carcinogen or other substance that may cause chronic disease, the public health goal shall be set at the level that, based upon currently available data, does not pose any significant risk to health.

(C) To the extent information is available, the public health goal shall take into account each of the following factors:

(i) Synergistic effects resulting from exposure to, or interaction between, the contaminant and one or more other substances or contaminants.

(ii) Adverse health effects the contaminant has on members of subgroups that comprise a meaningful portion of the general population, including, but not limited to, infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subgroups that are identifiable as being at greater risk of adverse health effects than the general population when exposed to the contaminant in drinking water.

(iii) The relationship between exposure to the contaminant and increased body burden and the degree to which increased body burden levels alter physiological function or structure in a manner that may significantly increase the risk of illness.

(iv) The additive effect of exposure to the contaminant in media other than drinking water, including, but not limited to, exposures to the contaminant in food, and in ambient and indoor air, and the degree to which these exposures may contribute to the overall body burden of the contaminant.

(D) If the Office of Environmental Health Hazard Assessment finds that currently available scientific data are insufficient to determine the level of a contaminant at which no known or anticipated adverse effects on health will occur, with an adequate margin of safety, or the level that poses no significant risk to public health, the public health goal shall be set at a level that is protective of public health, with an adequate margin of safety. This level shall be based exclusively on health considerations and shall, to the extent scientific data are available, take into account the factors set forth in clauses (i) to (iv), inclusive, of subparagraph (C), and shall be based on the most current principles, practices, and methods used by public health professionals who are experienced practitioners in the fields of epidemiology, risk assessment, and toxicology. However, if adequate scientific evidence demonstrates that a safe dose response threshold for a contaminant exists, then the public health goal should be set at that threshold. The department may set the public health

goal at zero if necessary to satisfy the requirements of this subparagraph.

(2) The determination of the toxicological endpoints of a contaminant and the publication of its public health goal in a risk assessment prepared by the Office of Environmental Health Hazard Assessment are not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Office of Environmental Health Hazard Assessment and the department shall not impose any mandate on a public water system that requires the public water system to comply with a public health goal. The Legislature finds and declares that the addition of this paragraph by the act amending this section during the 1999–2000 Regular Session of the Legislature is declaratory of existing law.

(3) (A) Beginning July 1, 2001, the Office of Environmental Health Hazard Assessment shall, at the time it commences preparation of a risk assessment for a contaminant as required by this subdivision, electronically post on its Internet web page a notice that informs interested persons that it has initiated work on the risk assessment. The notice shall also include a brief description, or a bibliography, of the technical documents or other information the office has identified to date as relevant to the preparation of the risk assessment and inform persons who wish to submit information concerning the contaminant that is the subject of the risk assessment of the name and address of the person in the office to whom the information may be sent, the date by which the information must be received in order for the office to consider it in the preparation of the risk assessment, and that all information submitted will be made available to any member of the public who requests it. Until July 1, 2001, the Office of Environmental Health Hazard Assessment shall send the notice to interested persons who request it by mail.

(B) Each draft risk assessment prepared by the Office of Environmental Health Hazard Assessment pursuant to this subdivision shall be made available to the public at least 45 calendar days prior to the date that public comment and discussion on the risk assessment are solicited at the public workshop required by Section 57003.

(C) At the time the Office of Environmental Health Hazard Assessment publishes the final risk assessment for a contaminant, the office shall respond in writing to significant comments, data, studies, or other written information submitted by interested persons to the office in connection with the preparation of the risk assessment. Any such comments, data, studies, or other written information submitted to the office shall be made available to any member of the public who requests it.

(D) Any interested person may, within 15 calendar days of the date the public workshop on a risk assessment is completed pursuant

to Section 57003, request the Office of Environmental Health Hazard Assessment to submit the risk assessment to external scientific peer review prior to its publication. If the office receives such a request, the office shall submit the risk assessment to external scientific peer review in a manner substantially equivalent to the external scientific peer review process set forth in Section 57004, if the person requesting the external scientific peer review enters into an enforceable agreement with the office within 15 calendar days of making the request that requires the person requesting the external scientific peer review to fully reimburse the office for all of the costs associated with conducting the external scientific peer review.

(E) It is the intent of the Legislature that, if the Office of Environmental Health Hazard Assessment receives a request to submit a risk assessment prepared for a contaminant to which paragraph (2) of subdivision (e) applies to external scientific review, the peer review shall be conducted in a manner that does not affect the schedule for publishing the public health goal for that contaminant as set forth in paragraph (2) of subdivision (e).

(d) Notwithstanding any other provision of this section, any maximum contaminant level in effect on August 22, 1995, may be amended by the department to make the level more stringent pursuant to this section. However, the department may only amend a maximum contaminant level to make it less stringent if the department shows clear and convincing evidence that the maximum contaminant level should be made less stringent and the amendment is made consistent with this section.

(e) (1) All public health goals published by the Office of Environmental Health Hazard Assessment shall be established in accordance with the requirements of subdivision (c) and shall be reviewed at least once every five years and revised, pursuant to subdivision (c), as necessary based upon the availability of new scientific data.

(2) On or before January 1, 1998, the Office of Environmental Health Hazard Assessment shall publish a public health goal for at least 25 drinking water contaminants for which a primary drinking water standard has been adopted by the department. The office shall publish a public health goal for 25 additional drinking water contaminants by January 1, 1999, and for all remaining drinking water contaminants for which a primary drinking water standard has been adopted by the department by no later than December 31, 2001. A public health goal shall be published by the Office of Environmental Health Hazard Assessment at the same time the department proposes the adoption of a primary drinking water standard for any newly regulated contaminant.

(f) The department or Office of Environmental Health Hazard Assessment may review, and adopt by reference, any information prepared by, or on behalf of, the United States Environmental

Protection Agency for the purpose of adopting a national primary drinking water standard or maximum contaminant level goal when it establishes a California maximum contaminant level or publishes a public health goal.

(g) At least once every five years after adoption of a primary drinking water standard, the department shall review the primary drinking water standard and shall, consistent with the criteria set forth in subdivisions (a) and (b), amend any standard if any of the following occur:

(1) Changes in technology or treatment techniques that permit a materially greater protection of public health or attainment of the public health goal.

(2) New scientific evidence that indicates that the substance may present a materially different risk to public health than was previously determined.

(h) Not later than March 1 of every year, the department shall provide public notice of each primary drinking water standard it proposes to review in that year pursuant to this section. Thereafter, the department shall solicit and consider public comment and hold one or more public hearings regarding its proposal to either amend or maintain an existing standard. With adequate public notice, the department may review additional contaminants not covered by the March 1 notice.

(i) This section shall operate prospectively to govern the adoption of new or revised primary drinking water standards and does not require the repeal or readoption of primary drinking water standards in effect immediately preceding January 1, 1997.

(j) The department may, by regulation, require the use of a specified treatment technique in lieu of establishing a maximum contaminant level for a contaminant if the department determines that it is not economically or technologically feasible to ascertain the level of the contaminant.

